

REMARKS

In the Final Office Action dated August 23, 2004, the Examiner objected to the prior amendment under 35 U.S.C. § 132 and rejected claim 1 under 35 U.S.C. § 112, first paragraph, due to use of the term "flexible." The Examiner also rejected claims 1-4 under 35 U.S.C. § 103 as being obvious in view of DuBois (U.S. Patent No. 4,967,322), rejected claims 5 and 6 as being obvious in view of DuBois in further view of Billingsley et al. (U.S. Patent No. 6,110,558), and rejected claims 7-12 as being obvious in view of DuBois alone or in combination with Billingsley et al. Claims 1-12 remain pending in the present application.

First, Applicants would like to thank the Examiner for participating in the telephone interview on November 22, 2004 regarding the scope of the cited prior art at issue in the present application.

Regarding claims 1-6, Applicants have canceled these claims without prejudice, which renders the Examiner's rejections under 35 U.S.C. § 132 and rejected claim 1 under 35 U.S.C. § 112, first paragraph, to be moot.

Regarding the rejection of remaining claims 7-12, the Examiner admits the DuBois reference "does not require the transparent cylinder [be] made of soft synthetic resin" as recited in independent claim 7. Instead, the Examiner asserts that the disclosure in DuBois "teaches the support tube may be made from a plastic material", which makes it obvious to "fabricate the transparent tubular sheath from a synthetic resin." Applicants traverse this rejection.

The DuBois reference discloses a plastic sheath and a rigid support cylinder. (Abstract). The sheath is described as being "transparent" without any qualification

regarding the quality of its plastic material. However, the inner support cylinder is described as being made “rigid” and from “relatively heavy stiff material, such as metal, wood, or heavy plastic.” Indeed, one of the desired functions of the reflective stick described in the DuBois reference is that of an “effective night stick” or “police night stick.” (Col. 1, lines 53-56; col. 2, lines 8-14.) Specifically, DuBois states “[e]specially in the preferred embodiment including the relatively heavy, stiff support tube, the stick-like reflective device can serve the dual function of an effective night stick as well as a traffic control device.” (Col. 2, lines 10-14.) Therefore, the DuBois reference teaches away from the use of soft materials as it would lessen the device’s use for its expressly intended function. Furthermore, Billingsley et al. fails to cure this defect. Accordingly, the Examiner’s reliance upon the reference as an obviousness reference is improper and the rejection of claims 7-12 should be withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully requests reconsideration and reexamination of this application in the concurrently filed Request for Continued Examination (RCE) application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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By: _____



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